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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 078700-020112

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Application Number	Filed
09/684,742	October 4, 2000

First Named Inventor: David C. Gelvin

Art Unit	Examiner
2143	AVELLINO, Joseph E.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 37,406.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

Bruce T. Neel
Typed or printed name

602-445-8339
Telephone number

August 8, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David C. Gelvin	Examiner:	AVELLINO, Joseph E.
Serial No.	09/684,742	Group Art Unit:	2143
Filed:	October 4, 2000	Docket No.	078700-020112
Title:	METHOD FOR INTERNETWORKED HYBRID WIRELESS INTEGRATED NETWORK SENSORS (WINS)		
Customer No.:	33717		

CERTIFICATE OF TRANSMISSION

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Name: Melissa J. Lusian

REASONS FOR REQUEST FOR PANEL REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Pre-appeal brief conference review is appropriate when there are clear errors in the Examiner's review and/or the Examiner has omitted one or more essential elements needed for a prima facie rejection. Applicant believes that at least one of these conditions is present here.

Claims 1-56 are pending in the above application. Claims 1, 46, 48-51, 54 and 56 are the independent claims in this application. **Claims 1, 46, 54, and 56 are included in the Appendix for convenient reference. It is important to note that the Examiner has not yet mailed an advisory action per private PAIR on the morning of this filing. Applicant has presented the claims in the Appendix assuming the latest amendments will be entered for**

simplification of issues on appeal. It is possible the Examiner does not make this entry. Applicant believes the arguments below are applicable in either case.

A. Distributing Processing to Two or More Nodes

Independent claim 46 has been rejected under 35 USC sec. 103(a) over Clare, Kail and Myer et al. The Examiner refers to Kail's Figure 2 as showing a central monitoring device 14a as "local" to portable monitoring unit 12. However, the Examiner appears not to have noted that **Applicant's independent claim 46** recites distributing processing of the collected data to two or more nodes. A close reading of Kail confirms that Kail always discusses the sending of data from a portable monitoring unit (PMU) to a central monitoring unit (CMU). Kail indeed mentions that two or more PMUs may send data to a CMU (see, e.g., Kail at 6:10-15). However, this clearly teaches away from Applicant's claimed invention.

More specifically, Kail teaches the centralization of data from one or more nodes at which the data was collected. It should be noted that Applicant's claim 46 recites "collecting data from the at least one environment using at least one node of a first type". The Examiner argues that a PMU collects the data. However, claim 46 recites distributing processing of the collected data to two or more nodes. The Examiner, by relying upon Kail, clearly only presents at most a single node that could be reasonably argued to receive data from the PMU. Although Kail does show in Fig. 2 other CMUs, Kail never describes distributing processing to two or more CMUs. Thus, Kail clearly fails as a supporting secondary reference as to this recited claim element. Further, the teaching of centralized monitoring throughout all of Kail's discussion teaches away from distributing processing to two or more CMUs.

B. Local Nodes

Independent claims 1, 54, and 56 have been rejected under 35 USC sec. 103(a) over Clare et al. and Kail. The Examiner has argued that the phrase "local to the node" is not clearly defined in the claims. As an example of the support for the meaning of "local" in the claims, Applicant's specification (p. 40) describes that a vast number of sensors maintain local contact with the physical world, and also describes access to remote users (such as data centers). In addition, Applicant's specification at pp. 17-18 (see also Fig. 8) describes a network having sensor nodes 802 distributed in an environment that is to be monitored or controlled. The

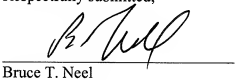
specification states that non-local users can interact with this network through gateways 804. Fig. 8 illustrates remote users 832. A person of skill in the art would distinguish the usage of the terms "local" and "remote" in Applicant's specification and claims. This usage would not be interpreted as a mere "logical connection" as argued by the Examiner, in which a remote node is construed to be the same as a local node (e.g., that collects data from an environment).

Indeed, the Kail reference cited by the Examiner makes a distinction between "remote" and "local" that is more appropriate than the Examiner's claim construction. **Kail is sufficiently consistent in word usage to demonstrate that Kail teaches away from Applicant's claim 1.**

For example, Kail's "Summary of the Invention" starts by stating that the "present invention provides an apparatus and method for remotely monitoring the status of a living or an inanimate subject." (col. 1: lines 62-64; emphasis added). Kail is using "remote" consistently in a manner that indicates it is not the same as "local". The Examiner suggests that the mere fact that a remote monitor may be "logically connected" to a portable monitoring unit supports that the remote monitor is "local" to the portable monitoring unit. But this distinction is not consistent with the usage of "local" and "remote" as described by Kail. **Since Kail only teaches the idea of remote, centralized data collection, it legally teaches away from distributing processing to a local node.**

It is respectfully submitted that the Examiner's rejections in the Final Office Action are clearly erroneous and that the application is in condition for allowance.

Respectfully submitted,



Bruce T. Neel
Reg. No. 37,406

Date: August 8, 2007

Customer Number 33717
GREENBERG TRAURIG, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Phone: (602) 445-8339
Fax: (602) 445-8100
E-mail: neelb@gtlaw.com

APPENDIX

Selected Pending Claims for Reference

Claim 46 (assuming amendment after final entered) A method of operating a sensor network, comprising:

coupling a plurality of network elements including a plurality of node types among at least one environment and at least one user computer;

collecting data from the at least one environment using at least one node of a first type; and

distributing processing of the collected data from the at least one node of a first type to two or more local nodes of the plurality of network elements.

Claim 1 (assuming amendment after final entered) A method for providing a sensor network comprising:

coupling a plurality of network elements including a plurality of node types among at least one environment and at least one user, wherein the plurality of node types includes at least one node of a first type and at least one node of a second type, and wherein the at least one node of a first type includes at least one sensor that receives data from the at least one environment;

remotely controlling at least one function of the plurality of node types;

collecting data from the at least one environment using the at least one sensor;

providing node resource information from the at least one node of a second type to the plurality of network elements; and

distributing storage and processing of the collected data among the plurality of network elements in response to the node information, wherein distributing storage and processing of the collected data comprises transferring data from the at least one node of a first type to at least one local node of the plurality of network elements and processing of the transferred data by the at least one local node.

Claim 54 (assuming amendment after final entered) A method for providing a sensor network comprising:

coupling a plurality of nodes among an environment, wherein at least one node of the plurality of nodes includes at least one sensor that receives data from the environment;

collecting data from the environment using the at least one sensor; and

distributing storage and processing of the collected data among the plurality of nodes, wherein distributing storage and processing of the collected data comprises transferring data from the at least one node to one or more local nodes of the plurality of nodes and processing of the transferred data by the one or more local nodes.

Claim 56 (assuming amendment after final entered) A method for providing a sensor network comprising:

coupling a plurality of network elements among an environment, wherein the plurality of network elements includes at least one node comprising a sensor that receives data from the environment;

remotely controlling at least one function of the plurality of node types;

collecting data from the at least one environment using the at least one sensor; and

distributing processing of the collected data among the plurality of network elements in response to at least one parameter of a signal received from the at least one environment, wherein distributing processing of the collected data comprises transferring data from the at least one node to at least one local node of the plurality of network elements.